

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 29, 2003 at 10:25 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pamela Schindler, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted:

Executive Action: SB 37-Be Concurred In As Amended;
SB 447-Be Concurred In As Amended

EXECUTIVE ACTION ON SB 37

Motion: REP. SALES moved that SB 37 BE CONCURRED IN.

Discussion:

REP. RICE reported to the Committee members the Subcommittee's recommendations to this bill. Among the recommendations were that if a person who has been stopped for an alleged DUI, that person must be informed that the officer must wait 15 minutes before that officer can administer a PBT or Portable Breath Test that will determine the BAC test or Blood Alcohol Content Test. The findings may be used in a judicial proceeding as evidence of a DUI.

The Subcommittee also made recommendations that the Committee adopt in the bill, an alcohol concentration of above .12 concentration. The language also referred to the criteria for suspension of a driver's license, an accident that did or did not occur, refusal of a requested test for alcohol concentration, the dissemination of information and causation of an accident at the time of the offense.

EXHIBIT (juh67a01)

Motion: REP. STOKER moved that SB 37 BE AMENDED.

Discussion:

Mr. MacMaster explained the amendment as it related to the criteria that needs to be met for the courts to order an ignition inter-lock cut off device installed in an offender's vehicle.

REPS. RICE, NEWMAN, THOMAS, GALLUS, NOENNIG, FACEY, STOKER, PARKER, HARRIS, and LANGE discuss the amendment as it relates to other state's concentration levels, the 15-minute wait before a test may be taken and the legal criteria met after the test, "false" high readings and the duties of the officer before and after the test.

REP. LANGE asked and was granted the request to segregate #10 in the amendment from the body of the amendment.

Vote: Motion that SB 37 BE AMENDED carried 14-4 with REPS.

CLARK, HARRIS, NOENNIG, and THOMAS voting no. (voice vote)

(This vote was for all the sections of the amendment; with #10 segregated)

REPS. LANGE, RICE, LASZLOFFY, FACEY, NOENNIG, and GALLUS discussed the segregated section of the amendment, #10.

Substitute Motion: **REP. FACEY** made a substitute motion that **SB 37 BE AMENDED.**

Discussion:

REP. FACEY discussed the proposed amendment that would insert a "." after the second line and delete the rest of the language in the amendment. **REPS. GALLUS, RASER, NEWMAN, and PARKER** discussed what the officer presently is required to do due to an "administration rule" imposed by separate agencies.

Vote: Motion that **SB 37 BE AMENDED** carried 10-8 with **REPS. CLARK, GUTSCHE, HARRIS, NEWMAN, NOENNIG, PARKER, RASER, and THOMAS** voting no. (roll call vote)

Motion: **REP. RICE** moved that **SB 37 BE CONCURRED IN AS AMENDED.**

Discussion:

REPS. NOENNIG, SHOCKLEY, RICE, and GALLUS discussed the bill in its entirety with respect to the fine increase, refusal to "blow" for BAC test, and inter-locking ignition device.

Motion: **REP. NOENNIG** moved that **SB 37 BE AMENDED.**

Discussion:

REP. NOENNIG discussed this amendment as to the offender's right to "refuse to blow" as it related to the mandatory imposition of an inter-locking ignition device.

Vote: Motion that **SB 37 BE AMENDED** carried 18-0. (voice vote)

Motion: **REP. FACEY** moved that **SB 37 BE CONCURRED IN AS AMENDED.**

Discussion:

The majority of Committee members discussed the bill further regarding among many things what the Subcommittee put forth as recommendations, the possibility of this bill being coordinated with HB 195, the possibility of a Conference Committee or a Free-Conference Committee being appointed to address the amendments that have been added to SB 37 and the coordination with HB 195.

After much discussion, **REP. FACEY** reconsidered his amendment to insert a "." into the language of the amendment and delete the rest of the amendment.

Substitute Motion/Vote: **REP. PARKER** made a substitute motion SB 37 for REPEALING **REP. FACEY'S AMENDMENT**. Substitute motion failed 9-9 with **REPS. CLARK, GUTSCHE, HARRIS, MALCOLM, NEWMAN, NOENNIG, RASER, SALES, and THOMAS** voting aye. (roll call vote)

Motion/Vote: **REP. GALLUS** moved that SB 37 BE CONCURRED IN AS AMENDED. Motion carried 16-2 with **REPS. MALCOLM and NEWMAN** voting no. (roll call vote)

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{Tape: 2; Side: A; Approx. Time Counter: 0 - 400}

EXECUTIVE ACTION ON SB 447

Motion/Vote: **REP. NOENNIG** moved SB 447 be REMOVED FROM THE TABLE. Motion carried 10-5 with **REPS. GALLUS, LASZLOFFY, MALCOLM, NEWMAN, and RICE** voting no. (roll call vote) (**REPS. CLARK, RASER and EVERETT ABSENT**)

Motion: **REP. FACEY** moved that SB 447 BE AMENDED.

Discussion:

REP. FACEY proposed an amendment that would delete all language except Sections 5, 6, and 7.

Vote: Motion that SB 447 BE AMENDED carried 15-1 with **REP. GALLUS** voting no. (roll call vote) (**REPS. RASER and EVERETT ABSENT**)

Motion/Vote: **REP. FACEY** moved that SB 447 BE CONCURRED IN AS AMENDED. Motion carried unanimously. (voice vote) (**REP. CLARK ABSENT**)

{Tape: 2; Side: A; Approx. Time Counter: 400 - 439}

ADJOURNMENT

Adjournment: 12:05 P.M.

REP. JIM SHOCKLEY, Chairman

PAMELA SCHINDLER, Secretary

JS/PS

EXHIBIT (juh67aad)